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NOTICE OF ALLOWANCE AND FEE(S) DUE

42015 7590 08/19/2008

POTOMAC PATENT GROUP PLLC
P. O. BOX 270
FREDERICKSBURG, VA 22404

EXAMINER

LAVARIAS, ARNEL C

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 08/19/2008

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/650,038

08/28/2003

Michael Haisch

0902-005

6948

TITLE OF INVENTION: MICROSCOPY SYSTEM, MICROSCOPY METHOD AND A METHOD OF TREATING AN ANEURYSM

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | NO | \$1440 | \$300 | \$0 | \$1740 | 11/19/2008 |

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

42015 7590 08/19/2008

POTOMAC PATENT GROUP PLLC
P. O. BOX 270
FREDERICKSBURG, VA 22404

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

| |
|--------------------|
| (Depositor's name) |
| (Signature) |
| (Date) |

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/650,038 08/28/2003 Michael Haisch 0902-005 6948

TITLE OF INVENTION: MICROSCOPY SYSTEM, MICROSCOPY METHOD AND A METHOD OF TREATING AN ANEURYSM

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|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | NO | \$1440 | \$300 | \$0 | \$1740 | 11/19/2008 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|-------------------|----------|----------------|
| LAVARIAS, ARNEL C | 2872 | 359-385000 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER

LAVARIAS, ARNEL C

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 08/19/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

| | | | |
|-------------------------------|------------------------|---------------------|--|
| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/650,038 | HAISCH ET AL. | |
| | Examiner | Art Unit | |
| | Arnel C. Lavarias | 2872 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/18/08.
2. ☒ The allowed claim(s) is/are 9-11,30-32,35,40,43,53-56,66-69,79-85 (renumbered 1-24).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <p>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____</p> <p>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material</p> | <p>5. <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____.</p> <p>7. <input type="checkbox"/> Examiner's Amendment/Comment</p> <p>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</p> <p>9. <input type="checkbox"/> Other _____.</p> |
|--|---|

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/18/08 has been entered.

Response to Amendment

2. The amendments to Claims 9-11, 35, 40, 79-84 in the submission dated 6/18/08 are acknowledged and accepted. In view of these amendments, the objections to the claims in Section 6 of the Office Action dated 12/18/07 are respectfully withdrawn.
3. The addition of Claim 85 in the submission dated 6/18/08 is acknowledged and accepted.

Response to Arguments

4. The Applicants' arguments, see in particular Pages 11-13 of the submission, filed 6/18/08, with respect to the rejections in Sections 8-17 of the Office Action dated 12/18/07, have been fully considered and are persuasive. The rejections in Sections 8-17 of the Office Action dated 12/18/07 have been withdrawn.

Allowable Subject Matter

5. Claims 9-11, 30-32, 35, 40, 43, 53-56, 66-69, 79-85 are allowed.

REASONS FOR ALLOWANCE

6. The following is an examiner's statement of reasons for allowance:

Claim 9 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a microscopy system, as generally set forth in Claim 9, the system including, in combination with the features recited in Claim 9, a controller for accessing the stored set of first image data from the memory, the controller selecting a subset of image data from the first set of image data, the subset representing a second time series of images of the object region selected from the first time series of images of the object region, the second time series of images of the object region being fewer in number than the first time series of images of the object region, the controller supplying plural second representations generated from the second time series of images of the stored set of first image data to the display system so as to cause the display system to sequentially display the plural second representations generated from the second time series of images of the stored set of first image data such that the plural second representations are displayed in superposition with the first representation for observation by a user. Claims 30-32, 43, 80, 85 are dependent on Claim 9, and hence are allowable for at least the same reasons Claim 9 is allowable.

Claim 10 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a microscopy system, as generally set

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forth in Claims 10, the system including, in combination with the features recited in Claim 10, a controller for accessing the stored set of first image data from the memory, the controller selecting a subset of image data from the first set of image data, the subset representing a second time series of images of the object region selected from the first time series of images of the object region, the second time series of images of the object region being fewer in number than the first time series of images of the object region, the controller supplying plural second representations generated from the second time series of images of the stored set of first image data to the display system so as to cause the display system to sequentially display the plural second representations generated from the second time series of images of the stored set of first image data such that the plural second representations are displayed in superposition with the first representation for observation by a user. Claims 53-56, 81 are dependent on Claim 10, and hence are allowable for at least the same reasons Claims 10 is allowable.

Claim 11 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a microscopy system, as generally set forth in Claim 11, the system including, in combination with the features recited in Claim 11, a controller for accessing the stored set of first image data from the memory, the controller selecting a subset of image data from the first set of image data, the subset representing a second time series of images of the object region selected from the first time series of images of the object region, the second time series of images of the object region being fewer in number than the first time series of images of the object region, the controller supplying plural second representations generated from the second time series

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of images of the stored set of first image data to the display system so as to cause the display system to sequentially display the plural second representations generated from the second time series of images of the stored set of first image data such that the plural second representations are displayed in superposition with the first representation for observation by a user. Claims 66-69, 82 are dependent on Claim 11, and hence are allowable for at least the same reasons Claim 11 is allowable.

Claim 35 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a microscopy method, as generally set forth in Claim 35, the method including, in combination with the features recited in Claim 35, selecting a subset of image data from the stored image data, the subset of image data representing a second time series of plural fluorescent light images of the object selected from the first time series of plural fluorescent light images of the object; the second time series of plural fluorescent light images of the object being fewer in number than the first time series of plural fluorescent light images of the object; and displaying the second time series of plural fluorescent light images of the object generated from the accessed image data after the time period has lapsed such that the second time series of plural fluorescent light images is visible for the user and superimposed with the magnified first representation of the object. Claims 79, 83 are dependent on Claim 35, and hence are allowable for at least the same reasons Claim 35 is allowable.

Claim 40 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a method of treating an aneurysm of a

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patient, as generally set forth in Claim 40, the method including, in combination with the features recited in Claim 40, selecting a subset of image data from the stored image data, the subset of image data representing a second time series of plural fluorescent light images of the object selected from the first time series of plural fluorescent light images of the object; the second time series of plural fluorescent light images of the object being fewer in number than the first time series of plural fluorescent light images of the object; generating a visible light image of an object region; and displaying the second time series of plural fluorescent light images generated from the accessed image data such that the second time series of plural fluorescent light images is visible for the user and superimposed with the visible light image of the object region. Claim 84 is dependent on Claim 40, and hence is allowable for at least the same reasons Claim 40 is allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 10:00 AM - 6:30 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arnel C. Lavarias
Primary Examiner
Group Art Unit 2872
8/8/08

/Arnel C. Lavarias/
Primary Examiner, Art Unit 2872